

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)**

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10553 of 2004

Between:

Rayalaseema Concrete Sleepers Pvt. Limited,
S.P. Road, Secunderabad,
rep by Chief Executive Officer

..... PETITIONER

AND

1. Government of A.P., rep by Principal Secretary,
Labour, Employment Training and Factories Department,
Secretariat, Hyderabad.
2. Deputy Commissioner of Labour,
Kurnool Zone, Kurnool District.
3. Rayalaseema Concerete Sleepers Factory
Karminaka Sangam union,
Thimmanacherla Railway Yard,
Gooti road, Guntakal, Ananthapur district.

..RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or Orders, Direction or Directions declaring the proceedings of the 1st respondent in G.O.Rt No. 480 dated 20-3-2004 as illegal, arbitrary and not in accordance with law and to issue a Consequential direction to the 1st respondent to permit the petitioner to close down the Unit Respondent to permit the Petitioner to Close down the Unit Under Section 25-0 of the I.D. Act

Counsel for the Petitioner : MR.V.SRINIVAS, Advocate.

Counsel for the Respondent No.1 & 2: The GP FOR LABOUR

Counsel for the Respondent No.3 : None appeared.

The Court at the admission stage made the following ORDER:

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This writ petition is filed by the petitioner-Company aggrieved by the order of the first respondent-Government in G.O.Rt.No.480, dated 20-3-2004, under which, the Government refused to grant permission for closure of the petitioner's unit as sought for by it.

It is the case of the petitioner that subsequent to the impugned order, it made an application dated 22-03-2004 to the first respondent seeking reference of the matter in dispute to the Industrial Tribunal for adjudication in terms of Section 25(O)(5) of the Industrial Disputes Act (for short 'the Act'). But, however, the grievance of the petitioner is that no such reference was made though it is mandatory in terms of the provisions of the said Act, as well as, as per the decision of the Supreme Court in the case of **HINDALCO INDUSTRIES LIMITED V. UNION OF INDIA AND OTHERS**^[1], where the Apex Court has considered the provisions of Sub Section 5 of Section 25(O) of the Act interpreting the word "may" to be read as "shall" and accordingly, held that it is mandatory on the part of the Government to refer when sought for reference of the matter to the Tribunal. Therefore, the learned Counsel for the petitioner sought for a direction to the first respondent to make a reference of the matter to the Industrial Tribunal for adjudication in terms of Section 25(O)(5) of the Act. The learned Government Pleader, however, sought time to get instructions as to whether a reference was made or not.

Heard the learned counsel for petitioner and the learned Government Pleader for Labour.

In view of the mandatory provision, which was interpreted by the Apex Court in the judgment referred to above, there is no option for the

first respondent either to refer the matter to the Industrial Tribunal or not but it is mandatory for the first respondent to refer the matter in dispute for adjudication to the Industrial Tribunal.

Under the above circumstances, the writ petition is disposed of directing the first respondent to refer the matter in dispute for adjudication to the Industrial Tribunal within a period of two weeks from the date of receipt of a copy of the order.

Pending the said reference and adjudication by the Tribunal, the second respondent is directed not to initiate or proceed for prosecution of the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

ES/KVNI
2004

25-06-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary, Government of A.P., Labour, Employment Training and Factories Department, Secretariat, Hyderabad.
2. The Deputy Commissioner of Labour, Kurnool Zone, Kurnool District.
3. Two CCs to the Government Pleader for Labour, High Court Buildings, Hyderabad, (OUT).
4. Two CD copies

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO.10553 OF 2004

25-06-2004

[\[1\]](#) 2002(2) SCC, 580